

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

**In re EXPRESS SCRIPTS, INC.,
PBM LITIGATION**

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Master Case No. 4:05-MD-01672 SNL

This Document Relates to:

Gerald R. Minshew, on behalf of
the Goodyear Prescription Drug Plan

D.Mo. No. 4:02-CV-01503 SNL

Jerome P. Brown, et al., on behalf of
New England Health Care Employees

D.Conn. No. 3:04-01822

ORDER

In accordance with the Memorandum filed herein this Date,

IT IS HEREBY ORDERED that Plaintiffs' motion for partial summary judgment (No. 4:02-CV-01503, Doc. #343, filed Dec. 17, 2004) be, and is, **HEREBY GRANTED IN PART**. ESI is an ERISA fiduciary in controlling and/or disposing of plan assets related to ESI's OptiMed Program. In all other respects, Plaintiffs' motion is **HEREBY DENIED**.

IT IS FURTHER ORDERED that Defendant's motion for partial summary judgment (No. 4:05-MD-01672, Doc. #285, filed Jan. 18, 2008) be, and is, **HEREBY GRANTED IN PART** and **DENIED IN PART**.

IT IS STILL FURTHER ORDERED that Plaintiffs' motion for class certification (No. 4:05-MD-01672, Doc. #120, filed Mar. 28, 2006) be, and is, **HEREBY DENIED** in its entirety.

IT IS SO ORDERED.

Dated this 30th day of July, 2008.



SENIOR UNITED STATES DISTRICT JUDGE